

(C) The concern's record of performance on any previous Federal or private sector contract in the primary industry in which the concern is seeking 8(a) certification.

(7) *Other eligibility criteria.* (i) A tribally-owned applicant concern shall not be denied admission into the 8(a) program due solely to a determination that specific contract opportunities are unavailable to assist the development of the concern unless:

(A) The Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

(B) The purchase of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services.

(ii) Applicant must meet the eligibility criteria set forth in §§ 124.108 and 124.109.

(d) *Individual eligibility limitation.* (1) *Concerns owned by Indian tribes except those owned by Alaska Native Corporations.* The Small Business Act, as amended, provides that the 8(a) requirements regarding management and daily business operations are met if a tribally-owned concern is controlled by one or more members of the economically disadvantaged Indian tribe. The statute does not require that such individual be found by SBA to be personally socially and economically disadvantaged. Therefore, SBA does not deem an individual involved in the management or daily business operations of the tribally-owned concern to have used his or her individual eligibility within the meaning of § 124.108(c).

(2) *Concerns owned by Alaska Native Corporations.* The Alaska Native Claims Settlement Act, as amended, provides that a concern which is majority owned by an Alaska Native Corporation shall be deemed to be controlled and managed by minority individuals for purpose of participation in Federal programs. Therefore, SBA will not examine the disadvantaged status of an individual involved in the management of daily business operations of an Alaska Native Corporation-owned concern, and such individual will not be deemed

to have used his or her individual eligibility within the meaning of § 124.108(c).

(e) *Existing Section 8(a) Firms.* Tribally-owned concerns presently in the section 8(a) program must comply with the requirements of this section within 12 months from the effective date of these regulations. Failure to do so may result in the commencement of section 8(a) program termination proceedings.

[54 FR 34712, Aug. 21, 1989, as amended at 55 FR 33896, Aug. 20, 1990; 59 FR 12815, Mar. 18, 1994]

§ 124.113 Concerns owned by Native Hawaiian Organizations.

Concerns owned by economically disadvantaged Native Hawaiian Organizations as defined in § 124.100 are eligible for participation in the 8(a) program and other federal programs requiring SBA to determine social and economic disadvantage as a condition of eligibility. Such concerns must meet all eligibility criteria set forth in §§ 124.102 through 124.109 and § 124.111(a) of this part.

§ 124.114 Concerns owned by Community Development Corporations.

(a) Concerns owned at least 51% by Community Development Corporations (CDCs), as defined in § 124.100, are eligible for participation in the 8(a) program and other federal programs requiring SBA to determine social and economic disadvantage as a condition of eligibility. Such concerns must meet all eligibility criteria set forth in §§ 124.102 through 124.109 and § 124.111(a) of this part.

(b) A concern that is at least 51% owned by a CDC shall be deemed to be controlled by such CDC and eligible for participation in the 8(a) program, provided it meets all eligibility criteria set forth or referred to in this section and its management and daily business operations are conducted by one or more individuals determined to have managerial or technical experience and competency directly related to the primary industry in which the applicant concern is seeking certification.

(c) A concern owned by a CDC must qualify as a small business concern as defined for purposes of Government procurement in part 121 of this title.